



CRM-M-29690-2025

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**113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-29690-2025

Date of Decision: 30.03.2026

Deepak

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Bhargava, Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.15 dated 27.04.2022, registered under Sections 21, 25, 29 of NDPS Act, 1985 (Sections 411, 414, 468, 471 IPC added vide DDR No.14 dated 16.10.2022 and Section 473 IPC added vide DDR No.25 dated 18.10.2022), at Police Station Special Operation Cell, District (Intelligence Wing CID), Amritsar.

2. Succinctly, facts of the case are that on 27.04.2022, the police party while on patrolling received a secret information to the effect that Deepak (petitioner) alongwith Mehak Rai and Lovepreet Kaur formed a gang for smuggling of heroin and today also they would supply heroin to some party, which they have kept in a flat and would go to supply the same in a car. It was informed that in case of raid, they could be arrested alongwith the contraband. On receiving the information, a raiding team was constituted and raid was conducted at the place disclosed. All the accused persons were found sitting in vehicle No.PB-10-FE-0083 and on checking the said vehicle, a kit bag was recovered and on checking the same, 6 kgs of



heroin was recovered. They failed to produced any licence regarding the possession of the same, and thus, on registration of the FIR, they were arrested on the spot. The investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 25.07.2022. Earlier the petitioner approached this Court by way of filing CRM-M-42762-2022, however, the same was dismissed as withdrawn by this Court vide order dated 13.11.2024. Hence, the petitioner has approached this Court again praying for grant of regular bail by way of filing the present second petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that as per the case of the prosecution, the FIR was registered on the basis of the secret information. He submits that there is violation of Section 42 NDPS Act in the present case. He submits that the alleged recovery has been effected from a public place, however, no independent witness has been joined. He submits that there is violation of the mandatory provisions of Section 50 of the NDPS Act. To buttress his arguments, he submits that though the petitioner is involved in three more cases, however, the same is not registered under the NDPS Act and he is on bail in those cases. He submits that the petitioner is behind the bars from the last about four years, but till date the prosecution has not been able to examine even half of the witnesses and thus, his right of speedy trial is miserably defeated. He, thus, has submitted that in the overall facts and



circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioner. It is submitted that the petitioner was specifically named in the secret information. He submits that recovery of 6 kgs of heroin was effected in the present case from the car in which the petitioner alongwith the co-accused was travelling. He submits that the contraband recovered in the present case is 06 kgs of heroin, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in the present case. On instructions, he has submitted that out of total 20 prosecution witnesses, 03 witnesses have been examined till date. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that as per the case of the prosecution, FIR in the present case was lodged on the basis of secret information. The petitioner was arrested on 27.04.2022 and the alleged recovered in the present case was effected from a public place and from a car in which the petitioner alongwith the co-accused, was travelling. As contended before this Court, there is violation of Sections 42 and 50 of the NDPS Act, in the present case. The custody certificate would show that the petitioner has suffered incarceration of 03 years, 10 months & 19 days as on 28.03.2026. It further shows that though the petitioner is involved in three other cases, however, the same is not under the NDPS Act and the petitioner had been released in one case. Three witnesses have been examined out of total 20 prosecution witnesses.

6. As per law settled, speedy trial to the petitioner despite his involvement in multiple cases cannot be taken away. The trial of the case is



likely to take sufficient time. Speedy trial is the right of every accused. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

7. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

8. As held by the Hon'ble Supreme Court in ***Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260***, this Court is of the opinion that the case of the petitioner is covered by the ratio of law laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under



Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

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21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³). Incarceration has further deleterious effects -where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'

9. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

10. Accordingly, the present petition is allowed and the petitioner is

ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.03.2026

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned :

Whether Reportable

Yes/No

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Yes/No2